

Freedom Court Reporting, Inc**1**

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION

3 PATTY BEALL, MATTHEW)
4 MAXWELL, DAVID GRAVLEY,)
5 TALINA MCELHANY, KELLY)
6 HAMPTON, KEVIN TULLOS,)
7 CASEY BROWN, JASON BONNER,)
8 ANTHONY DODD, ILENE)
9 MEYERS, TOM O'HAYER, JOY)
10 BIBLES, DON LOCCHI AND)
11 MELISSA PASTOR,)
12 Individually and on behalf) CIVIL ACTION
13 of all others similarly)
14 situated,) NO.: 2:08-CV-422 TJW
15)
16 PLAINTIFFS,)
17)
18 VS.)
19)
20)
21 TYLER TECHNOLOGIES, INC.)
22 AND EDP ENTERPRISES, INC.,)
23)
24 DEFENDANTS.)
25

15 -----

16 ORAL DEPOSITION OF

17 MELANIE BAIRD

18 APRIL 26, 2010

19 -----

21 ORAL DEPOSITION OF MELANIE BAIRD, produced as a
22 witness at the instance of the DEFENDANTS, and duly
23 sworn, was taken in the above-styled and numbered cause
24 on the 26th day of April, 2010, from 1:22 p.m. to
25 4:30 p.m., before Elaine Fowler, CSR in and for the
State of Texas, reported by machine shorthand, at the
offices of Cathy Sosebee & Associates, 901 Mac Davis
Lane, Lubbock, Texas, pursuant to the Federal Rules of
Civil Procedure and the provisions stated on the record
or attached hereto.

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1 A. Yes.

2 Q. And at that time was Tyler called Tyler
3 Technologies or was it called a different company?

4 A. No, it was called INCODE.

5 Q. Do you remember who interviewed you back in
6 2001?

7 A. Dane Womble.

8 Q. Would you spell that, please.

9 A. D-a-n-e. And then his last name is
10 W-o-m-b-l-e.

11 Q. How did you learn of a job opportunity with
12 Tyler?

13 A. I worked with three gentlemen at a crop
14 insurance company who went to INCODE, and I just found
15 out who I needed to send a resume to.

16 Q. A car insurance company?

17 A. No, crop insurance.

18 Q. A crop insurance company?

19 A. Yes. And they told me which web site to go on
20 to -- to look for jobs that they had open.

21 Q. So after your colleagues went to Tyler you were
22 still in touch with them and you were asking them
23 whether Tyler had an opening?

24 A. Yes.

25 Q. Am I understanding you correctly?

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1 A. Yes.

2 Q. So after you spoke to your former colleagues
3 they told you to go to their web site to find out what
4 job openings there were, correct?

5 A. Yes.

6 Q. Did you submit -- let me ask you this. Did you
7 fill out an application or submit a resume on-line for
8 Tyler?

9 A. I emailed it to the web site. Or to an email
10 address, I am sorry.

11 Q. Was it Dane Womble who gave you a call to go in
12 for an interview; do you remember?

13 A. He sent me an email. But it was Dane, yes.

14 Q. And Dane interviewed you for the position?

15 A. Yes.

16 Q. What position was it at that time that you were
17 applying for?

18 A. I didn't apply for a specific position. I just
19 went in and had an interview.

20 Q. What position did you end up getting hired for?

21 A. I was hired as a support -- I don't remember
22 what they -- it was just software support. I don't
23 think we really had titles then.

24 Q. Did you interview with anybody else besides Mr.
25 Womble?

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1 A. No.

2 Q. While you were employed at Tyler, did your
3 position at any time then change from software support
4 to something else?

5 A. Yes.

6 Q. And what position did it change to?

7 A. To implementation specialist.

8 Q. And did your position as implementation
9 specialist ever change to anything else?

10 A. I had requested that it be changed to interface
11 specialist, but I am not aware if that ever went through
12 because all my paperwork still said implementation
13 specialist.

14 Q. And your position with Tyler ended on or about
15 November 14th, 2008; is that right?

16 A. Yes.

17 Q. And you resigned from your position as an
18 implementation specialist?

19 A. Yes.

20 Q. And why did you resign?

21 A. I received a job offer from an attorney to be a
22 legal assistant.

23 Q. Are you currently employed with that attorney?

24 A. No.

25 Q. After the job you got as a legal assistant,

1 believe that was what her title was.

2 Q. So then she would send you a notice saying our
3 client XYZ needs training?

4 A. Yes, and what they needed training on.

5 Q. And so walk me through then what would happen
6 after that. Once you get that notice from Phyllis --

7 A. Uh-huh.

8 Q. -- what happens then?

9 A. Every application that I trained on was
10 different, so it would depend on what they bought.

11 Q. And when you are saying application, you mean
12 the actual software application?

13 A. Yes.

14 Q. Okay. So walk me through an example. I don't
15 know what all you worked on. Give me through an example
16 and walk me through that.

17 A. Okay. For example, there is a software called
18 Audiotel that customers could run their checks and their
19 bill stubs through it and then -- so they didn't have to
20 manually type in their payments into the software
21 system.

22 Q. Customers or --

23 A. Yes, customers. They would scan them. And I
24 had to go on-site to set up the equipment, install the
25 software, configure it, and then train them how to use

1 it.

2 Q. Okay. So for that particular project that you
3 just told me about Audio --

4 A. Audiotel.

5 Q. Audiotel. Who was the client you were dealing
6 with, what municipality?

7 A. You want an example?

8 Q. Yeah.

9 A. Harker Heights, Texas.

10 Q. And that is a -- what is that?

11 A. That is a city.

12 Q. That is a city?

13 A. Uh-huh.

14 Q. So once you get a notice from Phyllis that
15 Harker Heights needs training on Audiotel, did you call
16 somebody at Harker Heights to coordinate letting them
17 know you were going -- how did you -- did you just show
18 up? Walk me through that process.

19 A. Okay. I would have to get the information from
20 them, like -- they would have to send me samples of
21 their bills so I could configure the scanner to be able
22 to read it.

23 Q. Did Phyllis send you that or did you have
24 someone at Harker Heights to receive that?

25 A. I would contact the customer, like Harker

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1 Heights.

2 Q. And how did you know who to contact at
3 Harker Heights?

4 A. It would be on the email from Phyllis.

5 Q. The contact information for you would be there?

6 A. Yes.

7 Q. So when you contacted the contact person --
8 typically who was the contact person at the city? Were
9 you dealing with the city manager? Who were you dealing
10 with?

11 A. It could be anybody. It was usually never the
12 same person.

13 Q. Was that person an IT individual working for
14 the city, or not necessarily?

15 A. Not necessarily.

16 Q. Okay. So once you contacted your contact at
17 the city, they introduced themselves, you told them that
18 you were trying to come up to the city to provide
19 training and you asked them for what again?

20 A. I would need copies of their bill stubs. You
21 know, when you get a bill in the mail and it tells you
22 to rip here, that portion, so we could configure their
23 scanner.

24 Q. So once you got that -- they would send that to
25 you by fax, I assume?

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1 A. Mail.

2 Q. Mail. Once you got that in the mail, what
3 would you then do?

4 A. Then we would contact -- it would either be me
5 or the project manager. Usually the project manager
6 would -- for that customer would contact them and set up
7 the training.

8 Q. But what did you do with the actual stub that
9 you received in the mail?

10 A. I would configure the software and the scanner
11 to be able to read it.

12 Q. Okay. And that is what I want to explore with
13 you. So you have a hard copy of a pay stub (sic) that
14 you got in the mail, right?

15 A. Uh-huh.

16 Q. Walk me through the steps of what then you
17 would do with the hard copy stub that you got in the
18 mail.

19 A. Okay. You would have to take a ruler and you
20 would have to take measurements off of there, like where
21 their bar code is, you know, a bar code for scanning.
22 You would have to measure it so you could tell the
23 software where to find it on that stub so when it runs
24 through the scanner it will know where to read.

25 Q. Okay. So once you measure that bar code that

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1 Q. And when you said set up the scanner, are you
2 referring to a regular scanner that you put the
3 documents into scan or --

4 A. No, it is a check scanner. You know, when you
5 go to like Wal-Mart or the grocery store and you hand
6 them a check and they run it through the little machine
7 that runs it around, it is like that.

8 Q. Do you actually have a piece of equipment, you
9 have a check scanner that you set up for them?

10 A. Yes.

11 Q. Was your training of clients limited to this
12 scenario that you are describing to me?

13 A. No.

14 Q. What other sort of training did you do with
15 your clients?

16 A. I also did training over the phone.

17 Q. Now, let's focus on the training you did
18 on-site. For your on-site clients that you went to and
19 provided training on-site, was this check scanning that
20 you were describing to be the only type of training that
21 you provided?

22 A. No. It was the majority, but occasionally a
23 customer would want me go to on-site to do what I would
24 normally do on the phone, depending on what they wanted.

25 Q. And on the telephone, what kind of training

1 were you providing for the clients?

2 A. We did training on interfaces.

3 Q. I don't know what interface means. Help me
4 understand that.

5 A. Interface -- the easiest way to describe that
6 is making sure that the INCODE software communicates
7 with other companies' software.

8 Q. And that is interface with an "f", not "ph",
9 correct?

10 A. Right.

11 Q. To make sure that the old software -- no, that
12 is not what you said. Say that one more time.

13 A. Make sure that the INCODE software works with
14 other companies' software.

15 Q. And INCODE software was the software that Tyler
16 was selling to the clients, right?

17 A. Yes. That company Itron I mentioned earlier,
18 that is another software company that we had to make
19 them communicate together.

20 Q. So why do you need them to communicate if they
21 were not going to use them, if they were going to then
22 convert -- if they were going to convert to INCODE, why
23 were you trying to make sure the two actually
24 communicated?

25 A. Because they didn't stop using that software.

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1 Q. Okay. Would you read that for me, please.

2 A. I am constantly referred to as the guru. I
3 have been able to learn and execute several interfaces
4 between our software and other software companies.

5 Q. Okay. Tell me what you meant by you being
6 constantly referred to as a guru. Give me some
7 examples.

8 A. That is just what everybody in our department
9 called me.

10 Q. Is that because you were the subject matter
11 expert in your field?

12 A. Just because I was good at my job, not really
13 any specific reason.

14 Q. And that second sentence, you being able to
15 learn and several interfaces. Tell me what you mean by
16 that.

17 A. The interfaces, what I was explaining earlier,
18 communicating with other software companies.

19 Q. And before you started reading the employee
20 comment you ranked yourself under job knowledge -- tell
21 me again, you were starting to read that, exceptional
22 knowledge of (sic) --

23 A. I am confused. I am sorry.

24 Q. That is okay. Under job knowledge the
25 employee's ranking, you ranked yourself how?

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1 customer by customer basis and is usually handled
2 between the trainer and I. It usually pertains to the
3 way routes are set up for customers and what the best
4 way to set them up for them is.

5 Q. When you say it is usually handled between the
6 trainer and I, help me understand. I thought you were
7 the trainer who trained the customers. What did you
8 mean by that sentence?

9 A. Well, I trained them on the interfaces. We had
10 trainers that went on-site to train them on the modules.

11 Q. So you didn't train them on how to use Tyler's
12 software, you only trained them on how to make two
13 softwares communicate, correct?

14 MS. HOLMES RAY: Object to the form.

15 A. Correct.

16 Q. (BY MS. KHOSRAVI) And what do you mean by the
17 second sentence, it usually pertains to the way routes
18 are set up for customers?

19 A. Well, every customer was different.

20 Q. The routes are set up, what does that phrase
21 mean?

22 A. Routes are like the order the meter readers
23 would read the meters. Like every city is set up
24 differently and they have different ways of doing
25 things.

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1 Q. Now, I want you to go up two lines, again I am
2 on problem solving, and tell me how you rated yourself.
3 Do you see your own ranking under box that has got a
4 capital E on top?

5 A. Yes. There is two of them marked there. I do
6 not know why there is two of them marked there, so I
7 don't know which one I actually picked.

8 Q. Why don't you read me the first one that has an
9 employee checkmark next to it.

10 A. Consistently analyzes problems, recognizes and
11 implements appropriate solutions, finds new and better
12 ways to do things.

13 Q. Tell me what you meant by saying that you
14 recommended and implemented appropriate solutions. Do
15 you remember an example?

16 MS. HOLMES RAY: I am going to object to
17 the form. You can answer.

18 A. Like an example would be -- like, say, they
19 would tell me that they have like 10 routes and we -- I
20 don't know what orders their meter readers would read
21 in, but I would need to find out from them like what
22 account numbers they wanted in each route. And then we
23 would have different configurations that we could set up
24 for them so they could make sure the right account
25 numbers and right meters came up for the meter reader on

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1 comment read for me what you put down there, please.

2 A. I contact customers in a timely manner and get
3 them the information they need and try to get the
4 information I need as well. I allow time for this and I
5 get my part done in a timely manner, so my part is done
6 quickly.

7 Q. So this was your comment with respect to
8 training your customers, correct?

9 A. Configuration mostly.

10 Q. So was this in response to telephone calls that
11 you would -- I am sorry. Was this in response to you
12 training over the telephone, customers with
13 configuration?

14 A. Yes.

15 Q. The reason I am asking you this question, the
16 sentence I contact customers in a timely manner is
17 throwing me off a little bit because I am envisioning
18 you training them on a particular aspect of the
19 software. So tell me what you mean by contacting the
20 customers.

21 A. Before we could do the configuration I would
22 need to contact them to see how they do things, like
23 when they -- you know, using the meter reader example,
24 okay, how do you do this, do you send them out -- how do
25 you send them out, like what readings do they want to

1 get at a specific time. You know, because they may have
2 multiple billings in a month. They may do their entire
3 billing in a month. It is just based off of how they do
4 entire processes. I would have to get information from
5 them regarding that to be able to inform all the
6 necessary people what we need to do.

7 Q. Let's look at the section on reviewing your
8 independence and initiative, Number 5. Tell me how you
9 ranked yourself under independence and initiative.

10 A. Works out effective solutions and requires
11 supervision only for instruction on new projects or for
12 critical aspects of assignments. Consistently
13 demonstrates interest in developing or learning new
14 skills, knowledge and abilities.

15 Q. Do you still agree with that statement?

16 A. Yes.

17 Q. Let's move on to Page 5 of your review. And
18 under Section B, review and identify performance
19 objectives, look at Item Number 2 where it says employee
20 plan. Go ahead and read for me what you put down under
21 your employee plan under that section.

22 A. Where it says list --

23 Q. Going down where it says employee plan in bold.

24 A. Oh, down here? Okay.

25 Q. Yes.

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1 Q. So you came up with some documentation to help
2 them do that?

3 A. Yeah. It was -- not -- I don't know if you
4 would really call it -- well, it wasn't a checklist. It
5 was just --

6 Q. What was it?

7 A. This is what we need.

8 Q. So where it says, "I have come up with a
9 standard operating procedure for meter reading
10 interfaces", what did you mean by standard operating
11 procedure?

12 A. It just outlines the information we need to
13 make it -- to make it easier on everybody.

14 Q. The information "we" need. Who is "we" again?

15 A. Oh. I always just say we need instead of
16 I need. The information that I needed to build the
17 interface.

18 Q. So you came up with a standard operating
19 procedure for information that implementation
20 specialists needed?

21 A. No, consultants.

22 Q. Implementation consultants, who were actually
23 at the clients' site?

24 A. Yes.

25 Q. Training them on the Tyler software?

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1 A. Yes.

2 Q. And did the implementation consultants end up
3 using the standard operating procedures that you
4 created?

5 A. Some of them did.

6 Q. And according to you, it made the process
7 smoother for all; is that right?

8 A. Yes.

9 Q. Okay. Now, read me the sentence below Employee
10 Comments where Dyke Ellison commented about you. What
11 did he put down? Can you read that for me?

12 A. "A big strength of Melanie is determining an
13 efficient way to solve issues that come up."

14 Q. Do you agree with that statement?

15 A. I don't really know what he meant by that,
16 though.

17 Q. Do you know what he means by that today?

18 A. I don't know what he meant by an efficient way
19 to solve issues. I don't really know what he meant by
20 that.

21 Q. Let's turn the page. Again, under factor
22 heading Independence and Initiative, Ms. Baird, how did
23 you rank yourself?

24 A. "Works out effective solutions and requires
25 supervision only for instruction on new projects or for

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1 Q. Turn to Page 7 of your performance evaluation
2 under Section D where it says Discuss Career Interests
3 and Goals. Do you see the section where it says
4 Employee Interests and Goals and is bolded?

5 A. Yes.

6 Q. You make some comments there, right?

7 A. Yes.

8 Q. Read that comment for me, please.

9 A. "I would like my position changed from
10 implementation specialist to interface specialist."

11 Q. Okay. Tell me why you wanted that changed.

12 A. Just because it was different.

13 Q. How was it different?

14 A. It was just -- because I didn't -- you know, I
15 worked with interfaces, and so it wasn't just -- really
16 just a general implementation thing. I worked with
17 interfaces, so I just wanted a different title. There
18 was not really anything specific. I just wanted a
19 different title.

20 Q. So other than wanting a different title, your
21 responsibilities, would they have changed any?

22 A. No.

23 Q. Okay. Did you know whether a salary increase
24 was associated with the title interface specialist?

25 A. There was not.

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1 Q. You can go ahead and set that performance
2 evaluation aside. Now we are going to look at your last
3 one while you were at Tyler.

4 (Exhibit 3 marked.)

5 Q. (BY MS. KHOSRAVI) I am going to hand you what
6 has been marked As Deposition Exhibit Number 3,
7 Ms. Baird. Tell me if you recognize this document.

8 A. Yes.

9 Q. What is it?

10 A. Performance review.

11 Q. And for what time period is that performance
12 review?

13 A. 2007 to 2008.

14 Q. And was this given to you again by Dyke
15 Ellison?

16 A. Yes.

17 Q. What was your title during this time period?

18 A. I wrote on here interface specialist, but I
19 don't know if they ever really made it official or not.

20 Q. Was this the title that we were just discussing
21 that you wanted?

22 A. Yes.

23 Q. Let's review together Section A of your
24 evaluation titled Review Performance Factors. I want
25 you to go to factor number 3, Problem Solving. And that

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1 Q. Okay. So read me the next sentence.

2 A. "I have come up with an install procedure and
3 an implementation procedure that is working well for all
4 parties involved."

5 Q. Okay. Tell me about the install procedure that
6 you came up with.

7 A. It was pretty much just we -- you know, the
8 first step is getting the site built, and then the
9 second step is getting the SSL certificate. And it was
10 pretty much having to explain to that new programmer the
11 way that it needed to happen to help, so that way he
12 could understand better so we would get the job done.

13 Q. So he got it better?

14 A. For a little while.

15 Q. Read the next sentence.

16 A. "TPS is now implementing the web service and I
17 was honored to be invited by Jarrett to a meeting and
18 was able to clear up most of the questions about this
19 for TPS due to my reorganization of the documentation
20 procedure."

21 Q. What does TPS stand for?

22 A. I don't remember.

23 Q. What was it? Do you even remember what it was?

24 A. I don't remember what it was.

25 Q. Do you remember -- can you explain the sentence

Freedom Court Reporting, Inc**157**

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 FOR THE EASTERN DISTRICT OF TEXAS
 2 MARSHALL DIVISION

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15 REPORTER'S CERTIFICATION

16 DEPOSITION OF MELANIE BAIRD

17 APRIL 26, 2010

18 I, Elaine Fowler, Certified Shorthand Reporter in
 19 and for the State of Texas, hereby certify to the
 20 following:

21 That the witness, MELANIE BAIRD, was duly sworn by
 22 the officer and that the transcript of the oral
 23 deposition is a true record of the testimony given by
 24 the witness;

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1 That the deposition transcript was submitted on
2 May 7, 2010 to the witness or to the attorney for the
3 witness for examination, signature and return to me by
4 _____;

5

6 That the amount of time used by each party at the
7 deposition is as follows:

8 MS. FARIN KHOSRAVI - 2 hours 51 minutes

9 MS. CHANDRA HOLMES RAY - 7 minutes

10 That pursuant to information given to the
11 deposition officer at the time said testimony was taken,
12 the following includes counsel for all parties of
13 record:

14 MS. CHANDRA L. HOLMES RAY, Attorney for Plaintiffs

15 MS. FARIN KHOSRAVI, Attorney for Defendants

16

17 That \$_____ is the deposition officer's
18 charges to the Defendants for preparing the original
19 deposition transcript and any copies of exhibits;

20

21 I further certify that I am neither counsel for,
22 related to, nor employed by any of the parties or
23 attorneys in the action in which this proceeding was
24 taken, and further that I am not financially or
25 otherwise interested in the outcome of the action.

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1 Certified to by me this 7th day of May, 2010.

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ELAINE FOWLER, CSR, No. 5881

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Expiration Date: 12/31/2011

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